

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 34739

STATE OF IDAHO,	)	2008 Unpublished Opinion No. 584
	)	
Plaintiff-Respondent,	)	Filed: August 6, 2008
	)	
v.	)	Stephen W. Kenyon, Clerk
	)	
VERNON EARL PETERSON,	)	THIS IS AN UNPUBLISHED
	)	OPINION AND SHALL NOT
Defendant-Appellant.	)	BE CITED AS AUTHORITY
	)	

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Appeal from the District Court of the Third Judicial District, State of Idaho, Canyon County. Hon. Thomas J. Ryan, District Judge.

Judgment of conviction and unified sentence of twenty-five years, with ten years determinate, for second degree murder, affirmed; order denying I.C.R. 35 motion for reduction of sentence, affirmed.

Molly J. Huskey, State Appellate Public Defender; Sarah E. Tompkins, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Jessica M. Lorello, Deputy Attorney General, Boise, for respondent.

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PER CURIAM

Vernon Earl Peterson was charged with first degree murder and pursuant to a plea agreement, pled guilty to second degree murder, I.C. §§ 18-4001, 18-4002, 18-4003(g), 18-4004, 18-112A. The district court sentenced Peterson to a unified term of twenty-five years, with ten years determinate. Peterson filed an Idaho Criminal Rule 35 motion for reduction of sentence, which the district court denied. Peterson appeals, contending that the district court abused its discretion by imposing an excessive sentence and by denying his Rule 35 motion.

Where a sentence is within the statutory limits, it will not be disturbed on appeal absent an abuse of the sentencing court's discretion. *State v. Hedger*, 115 Idaho 598, 604, 768 P.2d 1331, 1337 (1989). We will not conclude on review that the sentencing court abused its discretion unless the sentence is unreasonable under the facts of the case. *State v. Brown*, 121 Idaho 385, 393, 825 P.2d 482, 490 (1992). In evaluating the reasonableness of a sentence, we

consider the nature of the offense and the character of the offender, applying our well-established standards of review. *See State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 170 P.3d 387 (2007).

A Rule 35 motion is a request for leniency which is addressed to the sound discretion of the sentencing court. *State v. Knighton*, 143 Idaho 318, 319, 144 P.3d 23, 24 (2006); *State v. Allbee*, 115 Idaho 845, 846, 771 P.2d 66, 67 (Ct. App. 1989). In presenting a Rule 35 motion, the defendant must show that the sentence is excessive in light of new or additional information subsequently provided to the district court in support of the motion. *State v. Huffman*, 144 Idaho 201, 203, 159 P.3d 838, 840 (2007).

Applying the foregoing standards and having reviewed the record, we conclude that the district court did not abuse its discretion by imposing Peterson's sentence and by denying his Rule 35 motion for reduction of sentence. Accordingly, Peterson's judgment of conviction and sentence are affirmed, as is the denial of his Rule 35 motion.